

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
JEFFREY THEODAT,

Plaintiff,

-against-

THE CITY OF NEW YORK, NYPD OFFICER JOEL
CROOMS, and NYPD OFFICER CHRISTOPHER
MCDONALD,

Defendants
----- X

**STIPULATION AND
ORDER OF
SETTLEMENT OF
ATTORNEY'S FEES,
EXPENSES, COSTS, AND
INTEREST**

16 CV 3977 (FB)(SJB)

WHEREAS, plaintiff Jeffrey Theodat commenced this action by filing a complaint on or about July 18, 2016 and an amended complaint on or about October 14, 2016, alleging that defendants City of New York, Joel Crooms, Christopher McDonald, and Dalsh Veve ("defendants") violated his federal civil and state common law rights; and

WHEREAS, by Order dated June 24, 2019, Dalsh Veve was dismissed as a defendant; and

WHEREAS, the parties proceeded to trial; and,

WHEREAS, by Verdict rendered June 26, 2019, the jury awarded compensatory and punitive damages in the amount of \$458,500.00 in favor of plaintiff on his false arrest, battery, and failure to intervene claims against defendants; and,

WHEREAS, by Memorandum and Order dated September 13, 2019, the jury's award of compensatory and punitive damages in favor of plaintiff was remitted to \$121,000.00; and,

WHEREAS, a Judgment in favor of payment of \$121,000.00 was entered on September 26, 2019; and,

WHEREAS, by Summary Order dated July 1, 2020, the United States Court of Appeals for the Second Circuit affirmed the judgment of the District Court; and,

WHEREAS, by Statement of Costs dated August 12, 2020, the United States Court of Appeals for the Second Circuit taxed costs in the amount of \$189.80 in favor of plaintiff;

WHEREAS, on or about October 13, 2020, defendants paid the judgment of \$121,000.00 to plaintiff; and,

WHEREAS, plaintiff's counsel represents that plaintiff has assigned all of his rights to attorneys' fees, expenses, and costs to his counsel, Sivin, Miller & Roche, LLP, by Glenn Miller, Esq.; and

WHEREAS, counsel for defendants and counsel for plaintiff now desire to resolve the issue of attorneys' fees, expenses, costs, and interest without further proceedings;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for the respective parties to the above-captioned action, as follows:

1. Defendant City of New York hereby agrees to pay plaintiff's counsel, Sivin, Miller & Roche, LLP, the total sum of **THREE-HUNDRED NINETY-SEVEN THOUSAND FIVE HUNDRED NINETY-TWO DOLLARS AND THIRTY-ONE CENTS (\$397,592.31)**, in full satisfaction of plaintiff's claims for attorneys' fees, expenses, and costs. In consideration for the payment of **THREE-HUNDRED NINETY-SEVEN THOUSAND FIVE HUNDRED NINETY-TWO DOLLARS AND THIRTY-ONE CENTS (\$397,592.31)**, counsel for plaintiff agrees to release and discharge defendants City of New York, Joel Crooms, and Christopher McDonald; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York or any entity represented by the Office of the

Corporation Counsel, from any and all claims of attorneys' fees, expenses, and costs that were or could have been alleged in the this action.

2. Defendant City of New York hereby agrees to pay plaintiff, Jeffrey Theodat, the sum of **TWO-THOUSAND THREE-HUNDRED SIXTY-THREE DOLLARS AND FIFTY-FIVE CENTS (\$2,363.55)** in post-judgment interest pursuant to 28 U.S.C. § 1961. Defendant City of New York hereby also agrees to pay plaintiff **ONE HUNDRED EIGHTY-NINE DOLLARS AND EIGHTY CENTS (\$189.80)** pursuant to the Statement of Costs entered by the United States Court of Appeals for the Second Circuit on August 12, 2020.

3. Counsel for plaintiff, having been assigned plaintiff Jeffrey Theodat's rights to attorneys' fees, costs and expenses, hereby agrees and represents that no other claims for attorneys' fees, expenses, costs, or interest arising out of this action shall be made by or on behalf of plaintiff in any application for attorneys' fees, expenses, costs or interest at any time.

4. Counsel for plaintiff and plaintiff shall execute and deliver to the City of New York's attorney all documents necessary to effect this settlement; specifically, this Stipulation and Order of Dismissal of Attorneys' Fees, Expenses, and Costs ("Stipulation"), General Release based on the terms of paragraphs "1" and "2" above, respectively, and the City of New York Substitute Form W-9.

5. The City of New York agrees that payment of the above amounts will be made within ninety (90) days of receipt of all documents necessary to effect this settlement; specifically, this Stipulation, General Releases, and the City of New York Substitute Form W-9.

6. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the

United States, the State of New York, or the City of New York or any other rules or regulations of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations, except to enforce the terms of this agreement.

[INTENTIONALLY BLANK]

7. This Stipulation and Order contains all the terms and conditions agreed upon by counsel for defendants and counsels for plaintiff hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of attorneys' fees, expenses, costs, or interest shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

SIVIN, MILLER & ROCHE LLP
Attorneys for Plaintiff
20 Vesey Street, Suite 1400
New York, New York 10007
(212) 349-0300

By: 

Glenn Miller
Attorney for Plaintiff

JAMES E. JOHNSON
Corporation Counsel of the
City of New York
*Attorney for defendants City of New
York, Joel Crooms, and Christopher
McDonald*
100 Church Street
New York, New York 10007
(212) 356-2413

By: 

Philip R. DePaul
Attorney for Defendants

SO ORDERED:

Dated: New York, New York
_____, 2021

HON. FREDERICK BLOCK
UNITED STATES DISTRICT JUDGE